

Serial Number 10/766616
Examiner Nelson, AU 3379
Amendment dated 10/20/2006

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Comment and Argument

The Examiner has rejected claims 1-5 and 8-11. Claims 1-5, 8, and 10 have been amended and claims 1-5 and 8-11 remain.

Section 112 Claims Rejections

The Examiner cited rejections to the drawings, alleging that specific subject matter in the claims relating to the bin system with both the template and the skids as not being illustrated in the figures. The claims have been amended so that the template and skids are no longer in a single claim, rendering the drawings rejection moot. Accordingly, it is believed that new drawings are not required at this time.

The Examiner has rejected the claims, particularly 4, 5, 10, and 11 as failing to comply with the enablement requirement, asserting that the skids and template were never shown in the same embodiment. The undersigned disagrees, noting that the specification specifically describes such an embodiment. See for example pages 4 and 5 of the specification, which describes a cargo bin having skids for supporting the bin (page 5, second paragraph), as well as cargo templates (page 5, third paragraph).

Nonetheless, while the applicant reserves the right to later claim the embodiment of a cargo bin having skids and a cargo template, the present claims have been amended so that the template and skids features are no longer claimed in a single claim, so this rejection is now moot.

The Examiner rejects claims 1-5, 10 and 11 under 112; the term "sufficient distance" has been removed in claim 1. Claims 2-5 have been amended to more clearly set forth the bin(s) being referenced in the preamble.

35 USC 102 Claims Rejections

The claims as amended are clearly novel, distinguishable and non-obvious in light of Heft, and reconsideration is thereby requested.

Like the earlier cited Heft, Dore '889 teaches a set of skids having first and second slots formed along their length for stacking the units upon one another. Dore teaches a foldable enclosure structure 12 placed upon a pallet base.

The present claimed invention does not have a separate floor like Dore, but an integrated floor. Further, it does not have slots formed along their lengths like Dore, but rather recesses formed at opposing ends defining an inner edge formed to rest upon the bin holding area of the bin upon which it is stacked, the recess formed to interface with the upper edges of the cargo bin upon which it is stacked upon. See Claim 1 and Figures 1B-1D.

It is believed that the invention of Dore requires a slot for additional support while stacking the units because the foldable enclosure structure would not provide a sufficiently rigid framework to support the stacked units otherwise.

Unlike Dore, the bin of the present invention teaches and claims a rigid framework which does not require a slot for stacking, but rather, as indicated, relies upon recess formed at opposing ends of the skids to form an inner edge which rests upon the bin holding area of the bin.

Claim 10 has likewise been amended to set forth the rigid framework of the present invention which distinguishes it from Dore in view of Mander or Baehr.

Claims 1 and 10 have likewise been amended such that the rigid framework incorporates a particular reinforced stringer reinforcement.

Claim 5 has been amended to claim a layer of heavy gauge expanded metal (7) situated between said vertical support members (12) to form said first vertical wall, so as to further reinforce the cargo bin, which feature has not been shown in the prior art.

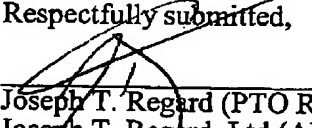
Under Brown & Williamson Tobacco Corp v. Phillip Morris, Inc 229 F3d 1120, 56 USPQ2d 1456 (fed Cir 2000), a showing of obviousness requires a motivation or suggestion to combine or modify prior art references, coupled with a reasonable expectation of success.

The initial burden is on the examiner to make a rebuttable prima facie case of obviousness based upon the prior art. In re Rinehart 531 F2d 1048, 189 USPQ 143 (CCPA 1976). The applicant for a patent has no burden to show proof of non-obviousness until a prima facie case has been made by the examiner. Dore, neither alone nor in combination, teaches, suggests, or otherwise contemplates the unique claimed features of the present invention, as discussed above, nor has there a showing of motivation or suggestion of combination of these references to teach the invention as claimed in the present application.

It is now believed that the claims are in condition for allowance, and applicant thereby respectfully requests same.

If additional issues remain, and the Examiner is of the opinion that same could be resolved by telephone or examiner amendment, the undersigned respectfully requests same at (985) 845-0000.

Respectfully submitted,


Joseph T. Regard (PTO Reg 34, 907)
Joseph T. Regard, Ltd (APLC)
Post Office Drawer 429
Madisonville, LA 70447-0429
Tel:(985) 845-0000
Fax:(985) 845-7090
Email: jregard@regard.net